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ABSTRACT

Conflicts of interest that may arise from faculty consulting (professional services or advice to a client) are considered, with attention to issues such as time for consulting; competition with private practice; conflict of obligations; use of the university name, facilities, and resources; income considerations; and reporting and monitoring of consulting activities. Faculty consulting can serve as a vehicle for technology transfer, since faculty members, as active professionals and as authorities in specialties, have responsibilities to society and their professions. The following conclusions are offered: consulting should be accepted as a legitimate and valued activity; consultants should report their projected outside activities in advance to department heads whose approval should be required; a progress report should be required at the end of the project year or semester/quarter; a college or department committee should periodically review all reports and make recommendations; and the university should not seek information on contracted income for consulting. Appendices include a sample reporting form for consulting activities, a proposed policy on academic consulting, and an article on preventing conflicts of interest in government-sponsored research at universities. (SW)

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ENCLAVES
of
INTELLECTUAL AND MORAL INTEGRITY

The most important possession of Colleges and Universities is not their endowments, nor facilities, nor even the faculty, administrators and trustees. The possession that is important above all is integrity. In the end, the structure of governance must protect the ability of higher education to carry on, with integrity, the essential functions of teaching and research. Carnegie Foundation. *The Control of the Campus.*

ACADEMIC CONSULTING
in
COLLEGES AND UNIVERSITIES

A Report to the
COORDINATING BOARD
TEXAS COLLEGE AND UNIVERSITY SYSTEM

by
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Spring, 1985

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Enclaves of Intellectual and Moral Integrity

The designation of colleges and universities as "enclaves of intellectual and moral integrity" is not a statement of maudlin sentimentality or of pious hope. Rather it is a statement of the undergirding principle on which the form and structure of the university is based. Academic freedom is fundamental to the pursuit of university purposes, but academic freedom can be achieved and sustained only if academic integrity is maintained. The university cannot be understood if this context is absent.

Organizations customarily use management and control as the major means by which desired ends and outcomes are achieved. Emphasis on control, however, is an ineffective means where creative expression and the search for valid knowledge is the institution's purpose. Scholars and artists require freedom of inquiry and expression as well as wide latitude in their choice of objects, modes of study, and uses of their time and talents. Management procedures based upon the use of standardized and repetitive production operations or rule-directed procedures are at best a poor fit for research activities. Equally inadequate are those commonly used in evaluation and accountability.

In the absence of dependence on control by management, universities are left with dependence on researchers and scholars for responsible self-management and control. Since the most important activities are not standardized or uniform, making the decisions about academic, moral and ethical questions often becomes the responsibility of the faculty member alone. It is for the academic community to formulate ethical principles and to codify them. Given such principles, and in the light of such principles, faculty members make their decisions. In so doing they build and preserve the enclaves of academic integrity upon which university integrity and public confidence rests.

This paper has as its concern conflict of interest situations and, more specifically, university policy on the service activities of professors outside of the university. Such "consulting" carries a risk of neglect of responsibilities, and of misuse of university resources. At the same time it can provide benefit to the university, the faculty member and the community or organization served. To maximize the benefit and to minimize the risk there should be a heightened awareness of the ethical and legal considerations which such activities can involve. A second need is for a clear and simple statement of policy. Thirdly there is need for promulgation of policy and for some limited monitoring or reporting procedures which permit detection and alleviation of abuse.

Understanding the University

As institutions, universities are unique. As such they are not always understood. The university community should make every effort to rationalize its own being for itself and to interpret itself outside of its own boundaries.

Sources of Organizational Structure

Organizations take their form and structure from two major sources.[2] One of these is from their environment, while the other is from their technology. Environmentally oriented organizations turn their backs on their technology and take their form and structure from the expectations of their environment. Such organizations tend to be highly "intruded" -- that is people or groups outside the organization interfere with or exercise influence on what the organization does or how it does it. The school is selected by scholars as the best example of an intruded or environmentally dominated organization. The shorthand term "Sociologic" also is used with this type.

Technology oriented institutions ("Technologic") 'turn their backs on their environment and take their form and structure from their technology.' The factory is cited as a clear example of this type of organization. It is rationally organized for production purposes and it experiences little intrusion from its environment.

Though technology may seem far removed from any concept of a university, it is not when technology refers to processes, not products. In the broadest sense, academic freedom is the overriding technology of the university. As Bok has said, "... academic freedom is not merely a reflection of society's commitment to free speech: it is a safeguard essential to the aims of the university and to the welfare of those who work within it".[3] The university form and structure is designed to provide optimal conditions for inquiry and the freedom to openly express, while at the same time limiting intrusion from the environment (i.e. special interest groups, the public). It is driven by internal processes and should be viewed as Technologic but in a very special way.

The significance of these differentiations is readily seen when the school and the university are compared. Schools are custodial socializing institutions. The public contests over the curriculum, textbooks, who teaches, discipline and many other policy and practice considerations; the intrusion is even solicited. Higher education on the other hand is granted almost unrestricted privileges of expression and inquiry as well as general freedom from outside intrusion into academic affairs.

Universities have been relatively successful in convincing the society that their functions of knowledge production, knowledge utilization, and knowledge dissemination can be performed best under freedom from political and social intrusion. Despite occasional incidents or scandals involving professor

abuse and intrusions on the part of governing boards universities and their professors have lived up to their tacit agreements with the society. The need for care and vigilance against abuse by both outsiders wishing to interfere and abuse by insiders is never eliminated, however. Freedom in whatever form is a right which goes with non-abuse. A strong informed ethical commitment from every faculty member is essential to its preservation.

Management and Academic Freedom

Universities, like all complex organizations, have to be governed, managed, controlled and resourced. They have functions to be performed, the most significant of which are scholarship and teaching. Academic freedom is essential to the pursuit of each of these functions. Conventional management and the freedom needed in universities are largely incompatible, however. Management implies control, however benign, while freedom connotes the absence of external control. Universities as institutions need to be understood in the context of the essential tension between the need for order, predictability and accountability on the one hand and the need for freedom and minimum structure on the other. At all costs, academic freedom must prevail. At the same time the complex organization must be managed.

On the academic side of administration the working compromise is to grant to individual professors and to the academic community control of academic policy and decision making in the areas of teaching, research and scholarship and to grant to the members of the professoriate the academic freedom necessary to the pursuit of scholarship in all its dimensions. Administration is seen as facilitative of the academic process with only the minimum intrusion of controls. This should be recognized as the essential condition of management in all organizations staffed by professionals (whose source of authority derives from the professions) but as even more true of professors. The

"whether, where, and when" of practice is subject to necessary control and organization while the "what and the how" is the responsibility of the professionals who are driven and guided by professional knowledge, skill and ethics.

Such an arrangement depends for its viability on mutual understanding and respect. The arrangement is too fragile for mutual neglect, however. The university -- its governance, management, faculty and students -- should be well informed of its arrangements, understandings, conditions and their rationale. High on the agenda of such understanding should be attention to its most vulnerable point -- its ethics.

Loose Coupling

Students of modern organizations also apply the concept of coupling[4] in an attempt to build understanding. "Loose" and "tight" coupling represent the polar positions along a continuum. "Tight" has some of the connotations of a "tight ship" but coupling theory is concerned more with relationships between and among the units of a system and their interactions than it is with formal control, important as control is. Units or elements of a system are coupled if the actions of one affects the other. Organizations differ in the extent to which their component units are coupled. Production organizations usually are tightly coupled in the interests of output, quality control and efficiency. Universities, on the other hand, are organized so that many individuals and groups can pursue their various research, creative activities, teaching and service agendas in relative freedom from organizational constraints or from the necessity of relating to each other. By design, they are loosely coupled with respect to their basic functions.

Under this "loosely coupled" system professors may go their independent ways or join in collaborative efforts. Policies may be ignored or even at

times defied with impunity. Classes may be missed or substitutes arranged. Faculty and other meetings may be ignored without penalty or even notice. Student programs of study are flexible. Content and procedures in courses as well as testing and evaluation of students is within broad limits a function of individual professors. Supervision of the substance or the teaching in courses is unthinkable. For university purposes it is better to permit professorial license -- if there is such a thing -- than it is to try to couple the organization tightly and risk academic freedom. Loose coupling is a core value and an essential condition of academic life.

However, in this studied avoidance of coupling as a strategy lies a continuing hazard to the institution, the individual professors, and to the integrity of the academic process. If management and monitoring are to be avoided or downplayed -- which they must -- individual awareness and responsibility is necessary, but little is done to ensure awareness. Professors are the only professionals who do not enter their roles through their own organized profession. They come instead from the disciplines and from the practicing professions. Also, they come without benefit of study of the university as an institution or the professioriate as a profession. They serve in a loosely coupled organization, hence they are not systematically inducted to their roles. Small wonder then that some fall into errors such as conflict of interest and react in ways that violate ethical principles.

It is not that what faculty need to know is not readily available in the extensive literature or in the wisdom of colleagues. It is that the academic community neglects its responsibilities to inform itself and to induct its members. As a matter of defensible principle it refuses to be coupled and it takes the consequences. It recognizes that faculty are not hourly workers with time clock concerns. Rightly it assumes that faculty members are professionals

in the earliest profession, devoting their services to the cause of knowledge. Loose coupling is a recognition that they are driven by a sense of service and responsibility to which tight coupling is an affront.

Whatever else it chooses to eschew, the academic community can ill afford inattention to ethical principles. In the absence of rules for directing behavior and of supervision and evaluation of performance, ethics becomes the guide for behavior, the coupling mechanism for the academic community. It is the only coupling that carries no threat to academic freedom.

Faculty Consulting

Consulting is a common phenomenon in American universities. Its relatively long history has been marked by varying levels of persistent tension, however. Welshon refers to consulting as a half-way house and says that "Consulting activities are ripe with potential, if not actual, problems for the profession, given their particular admixture of the public with the private."[5] There have been nagging questions of legitimacy and propriety and much suspicion and denigration of professors who have engaged in it. On the other hand there has been recognition of the value of these outside activities to the university, the individual professors, and to the client and the public. However, no amount of rationality or effort ever seems to remove the distrust and resentment of non-consulters or seldom-consulters over the claimed excesses, the presumed neglect of university responsibilities, the perceived passing of responsibilities in teaching and governance to peers, and the double-dipping of income.

A recent study should help to set the neglect problem in its proper perspective. Boyer and Lewis[6] in their comprehensive 1984 study highlighted

the issue in their title -- "Faculty Consulting: Responsibility or Promiscuity?". The authors wrote that:

> Faculty consulting, as here defined, is not necessarily limited to income-generation considerations. Rather, it is viewed more broadly as a natural extension and application of one's professional or scholarly expertise outside the academic institution and as an important form of public service that long has been recognized as a legitimate extension of faculty role and responsibility. Viewed in this way, faculty consulting relates directly not only to the intellectual, social, psychological, and economic well-being of the individual faculty member but also to the tripartite mission of most academic institutions (i.e., teaching, research, and service).[7]

The authors conclude that "... faculty consulting has been overestimated and under appreciated." They also assert that faculty consulting has not been out of hand nor is it increasing significantly. Most relevantly, they report that their research confirmed studies that "... showed faculty who consult to be more attentive to society's concerns and priorities and at least as active in their faculty roles on campuses as their non-consulting peers."[8]

Both Bok (Beyond the Ivory Tower[9]) and Linnell (Dollars and Scholars[10]) cite evidence and express opinions which support the views of Boyer and Lewis. It may be hard to reconcile consulting with traditional university values or win its acceptance but on balance it comes out positively when evidence is considered. Whatever good reason there may be to approach increased opportunities to consult with caution, it does not appear that faculty who consult are negligent with respect to other responsibilities. The balance may tip in the opposite direction.

Transfer of Technology

At this time in our history the American university is experiencing what may be its most rapid process of change and adaptation. In the past it has been deliberately aloof in order to prevent penetration and a reduction of its objectivity. It has been loosely coupled both internally and in its relations with the institutions and organizations in its environment. This has been

considered as being a proper posture by both the scholarly community and the public and private sectors.

Faced with tough competition for technological, economic and political advantage, the society now is seeking new ways to quicken the pace of invention and to reduce the time for translation into use. One of the major perceived means of accomplishing this is to couple the university processes with those of government, business, industry, space and the military. The challenge has been identified as one of technology transfer. Modes of achieving it have included setting up joint efforts in research and development, borrowing or exchange of personnel, prompt sharing of information, and even establishing new centers for research[11] in which universities become partners. Senator Edwards' Concurrent Resolution 92 dated 3/21/85 is closely related in that it calls for each institution to develop policies for ownership of intellectual properties developed in connection with universities of the state. Senator Edwards is addressing the high tech and technology transfer efforts and developments.

The opportunities available are not limited to areas usually associated with technology, however. They have grown to include the social and behavioral sciences and a number of the professions.

The challenge for the university will be to manage the intrusions and to retain academic freedom as its basic technology. Society can only be the loser if the university ever is captured. In the meantime there will be a growing opportunity for faculty to be assigned outside of the university, to consult, and to share experience with the world -- a process in which consultants are most comfortable. The distinction between "town" and "gown" will diminish with consequences that cannot be predicted accurately. However it does seem certain that the university will never be the same again and it appears to be possible

if not probable that it will reach new heights. Also certain is the need into the future for flexible and adaptable people and institutions.

Definition of Consulting

In dictionary terms, consulting means "providing professional or expert advice."[12] Welshon, in an attempt to encompass all of the elements into the definition, constructed the following:

> Faculty consulting is a practice in which a fee and/or prestige enhancement is gained for expert advice or services rendered (technical advice, knowledge, creative works, etc.) outside the institution. A further stipulation is that these services be used by the consulting employer to some further practical end, for example, product design or efficiency improvement.[13]

His definition stimulates thought about the forms of the reward but it fails to recognize that some professors from the practicing professions -- such as law or architecture -- take cases or commissions rather than consultancies. To encompass this type of consulting and others the following is suggested:

Faculty consulting is where, outside of regular institutional responsibilities, expert professional advice, services, or professionally created products are rendered to a client in return for a fee or other tangible advantage.

It is difficult to draft a definition that encompasses all of the possible situations. Artists or musicians, for example, may tutor privately or they may create works for showing, recital, or sale. In fairness it is important that all activities be covered by a policy if any is. This seems to indicate the need to use some term such as "outside professional activities," to specify what is included as clearly as possible, and to leave to the integrity of the individual and the alertness of administrators the marginal situation determinations.

Time for Consulting

There is something almost obscene in discussing "time" in a university context where commitment is the prime characteristic and time but a constraint with which each scholar and professional must cope. Work-time concerns are an accompaniment of tightly coupled systems where output restriction efforts tend to be generated. In loosely coupled systems, such as universities, time is a scarce commodity which constrains the ambitions of highly motivated and self-energizing people.

In this sense, concern over time in a university is with its limits rather than with limiting it. Nonetheless, in the presence of possible conflicts of obligation, it is necessary to recognize time limitations, to make some allocations, and to have parameters which guide faculty towards a defensible balance.

Whether written as policy or unwritten, universities are organized around the concept of teaching, research, and service and around the agreement on the 4-1-2 week. The equivalent of four days is devoted to teaching, research and university service. One day is for discretionary use in scholarly activities and/or consultation, private practice, or other activities of choice as long as they relate directly to the purposes of the university. The remaining two days are private, to be used according to personal choice; such choices often add further scholarship or service to the work week contributions. Viewed in this way the 4-1-2 statement is but another evidence of loose coupling and ethical choice options. It is a statement of intent rather than rule, a guide to action rather than a prescription. It is all the university has to say to committed professionals. It becomes important as a rule only when individuals abuse the openness or the balance of the system.

Unlike other organizations, a relatively small but highly important part of the faculty work week is time- and direct-obligation driven. This is the

time when collectives of people meet for instructional or governance/management purposes. The times and the populations are predetermined. Classes meet and committees ponder. Obligation is implicit in these arrangements. Not being present represents a conflict of obligation which, in abuse, requires resolution.

Consulting should not be allowed to preempt instruction or attendance at meetings to which the faculty member is committed. On the other hand absolutely tight coupling in such matters would be unthinkingly rigid. However, faculty members should be required to account for cancelled or shortened classes and for being absent from meetings where attendance is expected. For classes, necessary absence or substitute arrangements should be reported to the department chairperson on a form provided, and approved in advance whenever possible. Consulting should not be considered as a valid excuse for failure to meet institutional obligations except in unusual circumstances acceptable to the chairperson of the department.

It is useful to view the one day per week (as well as the two private days) as an important part of the university targeting of time resources towards basic purposes. A discretionary day allows the individual to devote concentrated attention to the scholarship and/or service activities which are necessary for favorable consideration in appointment, retention, promotion and salary considerations. <u>This evaluation accountability is the one coupling in the system which is tight, and therefore controlling of the individual in the longer term.</u>

There should be a clear understanding within the university community of the importance of this one day a week in the university system and a determination to make the most of it. Obligations may preempt the four days;

opportunity is the purpose of the fifth. Consultation is only one of the options.

Except in the evidence of gross neglect or abuse, time should not be a highlighted consideration. Professionals are not clock watchers and should not be regarded as such. Rare is the faculty member worth having who does not work well beyond the forty hours implicit in the eight hour day and the five day week. The desire to expand the horizons and awareness of knowledge and to better the human condition is a far tighter coupling than any that rules, regulations, reporting and monitoring can achieve. Further, the desire or need to achieve, to be recognized, and to rise in one's profession is strong in most faculty members; they are achievement motivated. Both the collective faculty and university administration are wise to keep these motivations in mind. One the other hand, highly visible cases of obvious neglect or incompetence require attention as a matter of justice and responsible use of resources.

Conjecture on Time and Effort

The positive evidence now available on the value of consulting and the evidence that those who consult do not tend to neglect their principal university functions causes pondering about the persistent negative attitudes towards consulting and those who consult. Again loose coupling theory provides a possible basis for an answer. As loosely coupled organizations, universities do not time-drive or assignment-drive the individual for more than a modest portion of the time available (perhaps 15 hours a week). The remainder is time flexible. There are ample expectations of how the faculty member should spend the balance of the time in teaching-related activities, in scholarship, and in developmental activity but there is no short-term control or accountability. Of all institutions, universities may be the highest in the expectation of individual initiative and effort.

Not all people are capable of initiating their own structure however. Some appear to substantiate the observation that "work expands to fill the time available." Such people are less likely to initiate research activities or be invited to consult. Resentment of consulting from such faculty members could be expected but they often accomplish no more than their busier and more effective colleagues.

There is no easy solution for this problem other than ensuring that faculty members at the time of employment show evidence of being self-starters and sustainers and that early evaluations consider these needed qualities. It is possible also that universities might offer support services and encouragement during the probationary years. Mentors might prove helpful. Essentially, however, the university must not violate academic freedom by exercising control, however modest or well intentioned. Frustrating as it is, academic freedom and loose coupling demand the right to fail ahead of the obligation to provide or to accept influence or control. Not everyone belongs in a university, even if possessed of the usual credentials.

Consulting in Competition with Private Practice

Professors who consult often do so in direct competition with individuals and with agencies involved in private or corporate practice and in selling similar knowledge and skills. Such conflict tends to be viewed by the private sectors as unfair competition. It also, on occasion, generates hostility and dispute.

Private consulting firms are capitalized, have high overhead, and have to provide sustained incomes for all of their personnel. Understandably, they tend to resent the "subsidized" and "cut rate" competition from professors whose basic income and tenure is assured. Professors, on the other hand, are likely to perceive that private sector rates are not justified for them

considering that they are seeking and getting updating experience, that their overhead is covered, and that they are limited in the services they can undertake because of obligations to the university.

As the organized consulting business continues to grow universities will need to attend to relations with the private sector. The universities may have to agree that consulting in competition with private practice can be done only on an individual basis and that faculty members may not establish corporations for the purpose of promoting consulting opportunities. In this regard the Colorado State University confrontation with the Consulting Engineers Council of Colorado is instructive. (Appendix II of Welshon included as Appendix B of this report). Another possibility is that the emerging arrangements for technology transfer will reduce individual faculty consulting in favor of university assignments to collaborative technology development centers.

In the meantime universities, faculty members, and those who exercise surveillance over faculty outside activities should be alert to potential and damaging conflict with the private sector.

Incidental Professional Activities

Faculty members, as recognized authorities in their fields of specialization and as active members of their professions, have responsibilities to their professions and the society that lead them into activities which may produce income. Most common among these activities are prepared speeches, serving on discussion panels, and media interviews. Commonly when substantial effort is involved an honorarium is received.

Although in some cases it is hard to draw the line between consulting and infrequent incidental activities, they are different in intent and activity. Most importantly they are not sought, not organized effort, and not in

competition with the private sector. They do, on the other hand, constitute a major source of conflict of obligation both in preparation and travel time.

Universities should be explicit about whether such activities are to be viewed and reported as consulting. In most cases they should not. It is not unreasonable to require that they be reported to the department chairperson by memo or report form and that all conflicts of obligation be disclosed and their resolution be indicated. A heavy incidence of such activities on the part of an individual could lead to a requirement of prior approval.

Unrelated Employment

As indicated earlier, under the commonly understood and interpreted policy with respect to time commitments a faculty member is responsible for devoting the equivalent of five days of each working week to appointment related work. To maintain perspective, however, it is necessary to keep in mind that faculty appointments are professional and therefore not to be detailed or analyzed in a classified staff context. Professionals in institutional service cannot avoid some organizational constraints or expectations, however. The five days a week is such a constraint.

In further elaboration, universities commonly permit one of the five days to be used at the discretion of the professor in private pursuits of professional practice for fees or other tangible advantage such as gaining useful experience. The equivalent of four days, as a minimum, are to be devoted to specific appointment related activities.

Universities, in common with other employing agencies, do not presume to interfere with faculty activities during the remaining two days of the week -- usually the weekend. Some faculty extend their work activities into the two days either in professional activities or work outside the profession. Not unheard of are cases where the faculty member meets institutional expectations

for four days; consults for one or more days; and sells insurance or real estate or improves his property to enhance its value over the two day weekend. Such an interpretation has not been the one accepted by the academic community but it has been tolerated as within the range of available personal options. The academic context of the 4-1-2 guideline or parameter is one of profession, not craft. Additionally it is one of loose rather than tight coupling which grants the individual the right to make personal choices within the professional and ethical guidelines pertaining to professions. The one insistent requirement is that in the exercise of such privilege the faculty member not demean either himself or the university.

Universities are at a disadvantage when they attempt to address the problem of use of time by professors since they are committed to academic freedom, low structure, capitalizing on strengths, and tolerating a degree of abuse rather than imposing monitoring and control. They place their trust in the enduring processes of faculty selection and evaluation, salary determination, and promotion and tenure as the means of controlling faculty quality and eliminating the reluctant and the partially committed.

Conflict of Interest

> "Lead us not into temptation but deliver us from evil." Conflict of interest regulations seek to apply this biblical supplication in practical affairs, and at its heart lies the concept of agency. An agent is one who acts on behalf of another; from this simple statement flows the need for conflict of interest regulations.[14]

Conflict of interest potential is present whenever an <u>agent</u> has a personal interest in a transaction and could benefit from it personally. Such an interest threatens objectivity and may create temptations to dishonesty and

misrepresentation. Hence the person should not act as agent unless the conflict of interest has been declared and made public.

The principle is well stated in a University of Georgia policy on conflict of interest.

> The Georgia State Law Department, in a paper issued April 22, 1976 stated: "... there is the one core common law principle which stands out as a lodestar and is the source of virtually all constitutional, statutory and common law amplification. It is the principle that a public official or employee must not place himself in a position where his private and personal interest (as distinguished from a general citizenship interest) might prevent or appear to prevent him from exercising his official judgment, discretion, powers or duties in an unbiased manner.[15]

Conflict of interest in public institutions usually is covered by state law. Article 6252-9b, Section 1 of Title 110A of the Texas Civil Statutes states:

> Sec. 1. It is the policy of the State of Texas that no state officer or state employee shall have any interest, financial or otherwise, direct or indirect, or engage in any business transaction or professional activity or incur any obligation of any nature which is in substantial conflict with the proper discharge of his duties in the public interest. To implement this policy and to strengthen the faith and confidence of the people of Texas in their state government, there are provided standards of conduct and disclosure requirements to be observed by persons owing a responsibility to the people of Texas and the government of the State of Texas in the performance of their official duties. It is the intent of the legislature that this Act shall serve not only as a guide for official conduct of these covered persons but also as a basis for discipline of those who refuse to abide by its terms.

Section 8B of the same article defines state employee as including university personnel.

In addition, universities customarily include conflict of interest provisions in their statements of policy, rules and regulations. This is done in recognition of the hazards involved when unaware faculty members get involved in research or consulting activities out of which may come opportunities to profit or benefit beyond what the contract provides. For example, a relative may be recommended for employment without competition for the position and without disclosure of the relationship, or supplies may be

purchased from a company in which the faculty member has an interest. One is not allowed to serve his own interests while acting as an agent without making public the potential conflict and having the transaction approved by the responsible officials. The faculty member places himself at risk unless any conflict of interest has been declared and ruled as acceptable. For this reason faculty who assign texts which they have written customarily forego royalties on books for their students sold in the bookstore.

Faculty members acting as consultants are not acting as agents of their institutions and must not represent themselves as such. Prudently, they should indicate expressly that they are acting in a private capacity within the policies of the university with respect to discretionary use of time and that they in no way officially represent the university as agent.

However, once contracted as a consultant, the faculty member may be viewed as an agent of the employing body. Giving advice that would lead to personal profit without disclosure could lead to conflict of interest charges. Consulting faculty should ensure that they do not profit in any way other than the agreed upon fees.

Appended (Appendix C) is a 1977 statement "On Preventing Conflict of Interest in Government-Sponsored Research at Universities." The items treated in the statement deal with research rather than consulting but they serve to heighten awareness of conflict of interest situations.

A recently released report by the Association of American Universities (February, 1985) entitled University Policies on Conflict of Interest and Delay of Publication is data based, authoritative, and highly relevant.

Conflict of Obligations

Though faculty usually do not encounter conflict of interest in connection with consulting they are confronted with conflict of obligations on a regular

basis. (Some authorities subsume both conflict of interest and conflict of obligation under conflict of interest, as does the AAW report.) By its nature, consulting is difficult to pursue without conflict with regularly scheduled activities such as classes, advising, dissertation defense, and meetings as well as those activities related to research and to campus administration and governance.

Conflict of obligation occurs whenever the university and the consulting time and energy demands come into conflict (e.g. The professor has a scheduled class but also has agreed to serve as a consultant at an important medical symposium.). It also occurs whenever the university and the consulting demands together require more than the available faculty member's energies and resources. All conflicts of obligation have to be resolved by some choice of alternatives.

Under clear university understandings consulting rights and privileges are viewed as legitimate but except in justifiable circumstances subordinate in priority to teaching, research and university service. Faced with a conflict, the faculty member has to resolve it. The resolution is not predetermined by the priority, however. The faculty member must decide, and seek approval when service outside "trumps" obligations inside. Normally obligations override opportunities but that situation too has a necessary degree of loose coupling. Ethical considerations should weigh heavily in the resolution.

Use of the University Name

Faculty who consult are doing so in a private capacity and not as authorized agents of the University. Thus they cannot in any way imply the involvement or support of the institution. It is their obligation to insure that the contracting party understands this relationship.

The faculty member is not proscribed from revealing the connection with the university, however, It is permissible and desirable that the degree, academic rank, department, college and institution as well as the specific university assignment and specialization be provided. It also is permissible to use the university mailing address and the office phone number for consulting purposes. University stationery should not be used unless expressly permitted.

Use of University Facilities and Resources

The direct costs associated with faculty consulting appropriately should be passed on to the contracting party. Too often incidental costs end up being absorbed in the departmental budget and are never recovered. Such costs cumulatively can be substantial when a number of professors are involved.

The institution should grant to the individual free use of the assigned, furnished and equipped office since there is little or no extra costs incurred through consultant use and there is no practical way to allow others the use of the office during the absence of its occupant. Additionally, access to the office for consulting related work keeps the faculty member available on campus rather than at home or on the consulting site. The office should be viewed as a necessary perquisite of service.

Direct costs incurred in consulting activities should be recovered from the faculty member who passes them on to the client. Such items include all telephone charges, materials and supplies, clerical and typing costs, computer time, mailing, use of university vehicles, duplicating, and media equipment and services. Office rental proportionate to the time used for consulting could also be charged if deemed necessary but the loss of services would outweigh the overhead recovery.

To facilitate consulting, to regularize the delivery of services to consultants, to reduce waste of valuable time, and to ensure the recovery of costs, universities would be well advised to maintain a service unit which would provide services at cost to all professors engaged in outside activities on a strictly individual basis. When such a service is provided, department offices should be proscribed from supporting consulting activities except in the areas of mail and message control. This will reduce departmental overhead costs and allow the offices to concentrate on the teaching and personnel functions for which they properly are responsible.

A clear advantage of having a service and charge back system would be that is would render less substantial the accusations from the private sector that universities engage in unfair competition by underwriting or subsidizing the overhead costs of consulting activities by professors.

Income Considerations

Faculty members often express concerns about the income which their consulting colleagues are believed to generate and the unfairness of it. Studies of consulting[16] do not confirm the suspicions of high levels of such incomes. Even if they did the comparisons would not be helpful. What is needed are studies of the lifetime income of professors who participate strongly in outside activities and those who do not but who are equally effective in research and scholarship generation or in the areas of the creative arts. It is suspected that such studies might be informative.

The definition of consulting presented earlier deliberately included both "fee" and "other tangible advantage" as the rewards of consulting. Effective faculty members make the most of their so-called "free" or "fifth" day. Some

recognize that expedited promotions, based on scholarship and research, together with favorable annual increments can amount to greater economic rewards over a career than can consulting or private practice on the fifth days. In addition the scholarly orientation is likely to yield much higher prestige and recognition with the university and the scholarly community.

The university needs service oriented faculty members even as it needs researchers, scholars and those who work in the creative arts. Defusing the consulting income issue could have a salutary effect on the university community. Not all of the advantages go to the consulters.

Credit Towards Promotion, Salary, and Tenure

There are widely divergent views on whether consulting activities should be given credit towards tenure and promotion or even towards salary increments. A common perception is that consulting already is "double dipping" since it receives fees for time already paid by the university. To receive promotion and salary increments would compound the advantage further. Such arguments neglect two important considerations. Consulting is a fifth day activity for which no release from obligations is granted. The consulting faculty member is exercising a choice of options for the use of time. The choice is among university valued alternatives of scholarship, teaching and service, each of which carries its own differential rewards. There should be no penalty for pursuing valued university activities.

As to "double dipping" it differs from scholarship activities mostly in the immediacy of the "dip." It is not incremental as are the salary and promotion increments given for research. It can be argued that under present university policies and practices, consulting is "double decremented." The long-term income may be lower for those who consult than for those who pursue the prime value of scholarship.

Universities need to decide whether service activities to the society's institutions and agencies are dignified professional activities which permit qualified faculty members to render expertise to the world of work or service while gaining experience and income enhancement. It need not be equated with research and scholarship but neither can it be demeaned and underprivileged. University bias in this connection will need correction if technology transfer is to be an important function.

In view of the shifting values of both the society and the universities, the question of credit for consulting should be re-examined. Consultation that makes a genuine contribution, like research that does the same, should be valued and rewarded. The problem is with evaluation. Research is peer reviewed and evaluated. It also results in review for publication. Service consultation may or may not have tangible products. To this observer, it is imperative that universities develop appropriate methods for analyzing transfer as the criterion. It should be no less valid than are efforts to evaluate research and teaching.

Double Dipping

A faculty member who engages in consulting or other remunerated outside activities to the point where the primary obligations to the university are compromised is involved in "double dipping" or receiving pay from more than one source for the same time. For example, a professor who builds houses on the weekend and consults two days during the employment week receives pay from two sources for one of the days. Such practice is unethical at least and possibly illegal.

In the university double dipping may be easy to suspect but difficult to detect and even more difficult to prove. It is best treated on an individual and personal basis when it occurs. Setting up processes of prevention or

detection would require undermining the trust system and the loose coupling of the organization and hence be counterproductive. The initial requests for approval and for termination reporting together with incidental gaining of insights should reveal the more serious cases.

Private Practice of a Profession

In the definition of consulting developed for purposes of this study both professional services and advice to a client were included. The definition is broad enough to include the private practice of a profession on a part-time basis. University professional schools employ practitioners to engage in teaching and research. For such faculty, consulting may have a different meaning. Their optional use day is likely to be devoted to the private practice of their profession (law, medicine, optometry, architecture, etc.). In such cases the purpose is to remain active as a practitioner while serving the profession as a teacher and investigator. It also permits the testing of new methodologies as they emerge in the profession. Professionals from the practicing professions should be encouraged to remain active in practice on a limited basis. The optional day is of advantage for this purpose. Each year the practicing professionals should report their private practice arrangements to their departments or colleges in the same way as consultants report their individual consultancies.

Reporting and Monitoring Consulting Activities

By definition, university based consulting is an employment related activity. It takes place on university time and makes use of expertise which the university hosts through employment, primarily for its own purposes. It should be understood that consulting which incurs conflict of interest or

serious conflict of obligation will not be undertaken. Consulting which reflects favorably on the institution, provides valuable experience for the faculty member, and does not unduly imbalance performance in each of teaching, research and service to the point where salary, promotion or tenure are prejudiced can only be viewed favorably.

On the other hand consulting can create a host of problems for the institution. Conflict of interest, conflict of obligation, misuse of university resources, internal dissention, and charges of unfair competition levied from the private sector are examples of common problems. Excess consulting -- a special form of conflict of obligation -- which causes resentment in the faculty is still another. Most problematic of all may be the faculty member who wishes to engage in outside activities but has not, over time, engaged in research and development activities and is in trouble with personal evaluation. In such a case withholding of approval for consulting may be justifiable until the deficiency is removed.

Each university will have to decide whether to exercise tight or loose control over consulting. If abuse is either absent and not foreseen or minimal, loose control is to be desired. A simple written indication of intent and scope submitted to the department chairperson could be sufficient so long as marginal cases are monitored discreetly. Other institutions will need an explicit policy which involves proposal, review, and approval or disapproval with formal appeal rights and processes.

Both types should call for a report on conclusion of the consultation which briefly elaborates the project and the time devoted to it, indicates its outcomes and products, and reports the perceived benefit to the consultant, and where relevant, to the institution.

Principle suggests that the low structure, loose coupling approaches which are advocated for campus operation should be projected into the administration of consulting. Faculty ethics and commitments should do the rest. But experience indicates that consulting has a way of falling into abuse of privilege and creating both dissention among the faculty and problems for the administration. When this occurs coupling will have to be tightened, at least for abusers of the privilege.

In summary, wisdom seems to suggest that consulting should be viewed positively and accepted as a legitimate and valued activity. It should, however, be under continuous if not close surveillance. To accomplish this consultants should report their projected outside activities in advance to the department chair whose approval should be required. At the end of the project, or at the end of each semester, quarter or year for continuing projects, a progress report should be required. Periodically a college or department committee should review all of these reports and make recommendations to the department and/or the college. Similar review activities would be appropriate for the Provost/Academic Vice-President on a three or five year cycle.

Reporting Remuneration for Consulting

The university has no need for information on contracted income for consulting and it should not seek to have it reported.

Administration of Consulting Policies

Colleges and departments should be responsible for administering the institutional policies on faculty consulting. It is only at this level that the understanding needed in making decisions and providing guidance can be found; each professional school and discipline is different from the other.

Central administration should receive problem cases, appeals, and semester/quarter or annual comprehensive reports on activities. Such reports should be reviewed and a university summary should be prepared for the president and the board of trustees.

To generate usable data the university could work with the colleges in developing the forms to be used in requesting approval of proposed consulting activities and those used for reporting closure of the activity. (Sample forms are included as Appendices D & E.)

The Future of Consulting

For the immediate future at least consulting seems destined to improve its place in the university value system of knowledge production, knowledge utilization, and knowledge dissemination. Properly conceived it will become the bridge between scholarship and use, the vehicle for technology transfer. Consulting will become the logical extension of the professors in professional schools, and in the disciplines to which they relate, into the world where professionals belong. Though individuals will differ in emphases, collectively they will span the functions from discovery to use even as do their practice oriented colleagues.

The hazards of consulting can be expected to remanin, however. The Achilles heel of academic consulting is its vulnerability to trivialization and its susceptibility to abuse. The actuality or the suspicion of trivialization and abuse becomes the basis for its derogation on campus and off. It is difficult to counter the negative attitudes towards consulting and to demonstrate that it is not trivial because it is not subject to review and public evaluation. Whereas research and other forms of scholarship are subject

to review and legitimation, consulting is subject only to marketplace processes. The products, often in the form of reports or advice transmitted verbally, tend to be private and beyond scrutiny by academic review bodies. Obscurity of the product or outcome coupled with the fact that it produces unrevealed double dipping income make consulting practice little valued as a faculty activity despite it being officially valued by the university.

Consulting is described as a process that is "cheaper to buy than to own." It is this in part which leads to the "rent a prof" denigration of the process.

Universities should accept responsibility for the status of consulting on campus. They should be as positive towards it as they are towards research and should cultivate it with similar care. Only in this way can they optimize their advantages and influence their quality and contribution. The most important objective should be to eliminate all pursuit of consulting just for income generation or activity purposes and shift attention to the technology transfer function. All consulting proposals should be expected to indicate just what it is that the consultant is contributing beyond services, what technology is being transferred.

The concept of transfer of knowledge, insights, expertise and skills from the academic community to the functioning institution or community should be explicit in all university based consulting. More trivial pursuits should be left to those who provide such services outside the university.

Footnotes

1. The Carnegie Foundation for the Advancement of Teaching. (1982). The control of the Campus: A report on the governance of higher education (p. 87). Washington: Author.

2. John W. Meyer, W. Richard Scott, & Terrence E. Deal. (1980, May). Institutional and technical sources of organizational structure explaining the structure of educational organizations, 5,(4), 1-33. Stanford, CA: Stanford University School of Education, Institute for Research on Educational Finance and Governance.

3. Derek Bok. (1982). Beyond the Ivory Tower: Social Responsibilities of the Modern University (p. 20). Cambridge, MA: Harvard University Press.

4. Karl E. Weick. (1976). Educational organizations as loosely coupled systems [Represented in ASHE Yearbook, 1984 Edition, pp. 66-84]. Administrative Science Quarterly, 21(1), 1-19.

5. Robert C. Welshon. (1983). The ethics of faculty consulting (pp 1-153). Unpublished master's thesis, Colorado State University.

6. Carol M. Boyer, & Darrel R. Lewis. (1984, September-October). Faculty consulting: Responsibility or promiscuity. Journal of Higher Education, 55(5), 638.

7. Ibid., p. 656.

8. Ibid., p. 657.

9. Bok. Ibid.

10. Robert H. Linnell (Ed.). (1982). Dollars and scholars: An inquiry into the impact of faculty income upon the function and future of the academy (pp. 1-142). Los Angeles: The University of Southern California Press.

11. House Bill 1970; Senate Bill 840 related to the establishment of a Center for Technology at the University of Texas. Filed March 7, 1985.

12. Henry Bosley Woolf (Ed. in Chief). (1977). Webster's New Collegiate Dictionary (p. 244). Springfield, MA: G. & C. Merriam.

13. Robert C. Welshon. Ibid., p. 20.

14. Robert G. Vaughn. (1979). Conflict of Interest in the Federal Executive Branch. Lexington, MA: D. C. Heath.

15. University of Georgia Policies and Procedures Manual. (1976, July 1). Policy Number .12-2, p. 351-A.

16. Boyer and Lewis. Ibid.

Appendix A

Recommended Readings

For those wishing to pursue the topic of academic consulting further five extremely helpful sources are recommended:

1. Carol M. Boyer, & Darrel R. Lewis. (1984, September-October). Faculty consulting: Responsibility or promiscuity. Journal of Higher Education, 55(5), 637-659.

2. Derek Bok. (1982). Beyond the ivory tower: Social responsibilities of a modern university (pp. 1-318). Camridge, MA: Harvard University Press.

3. Robert H. Linnell. (1982). Dollars and scholars: An inquiry into the impact of faculty income upon the function and future of the academy (pp. 1-142). Los Angeles: The University of Southern California Press.

4. Robert Birnbaum (Ed.). (1984). The ASHE reader in organization and governance in higher education (Revised Edition, pp. 1-437). Lexington, MA: Ginn Custom Publishing.

5. Association of American Universities. (1985, February). University policies on conflict of interest and delay of publication (pp. 1-27). Washington, DC: Author.

The Boyer and Lewis and the Linnell works both are data based and are accompanied by analyses and recommendations. Bok draws upon evidence from studies but the work primarily is a social commentary on the role of the university in the modern world. The ASHE Reader is a collection of works, each of which provides perspectives on organizations and higher education. The Association of American Universities work on Conflict of Interest is timely and particularly relevant in view of the technology transfer thrust at this time. This is the most recent statement on two of the most important issues involving research and development, including delay of publications for reasons of advantage. It is highly authoritative and useful.

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Appendix B

MEMORANDUM
To: Consulting Engineers Council of Colorado Members
From: Board of Directors

The following conclusions and recommendations of the College Liaison Committee have been approved by the CECC Board of Directors. They are being forwarded to the membership for your input and comments before being officially initiated with C.S.U. We would appreciate your comments prior to the April 20th meeting of the Board. Please call 757-3379.

2.1 CONCLUSIONS

As a result of its investigations, the College Liaison Committee reached the following conclusions regarding the complaint filed against Simons, Li and Associates, and the outside consulting policies/practices of Colorado State University:

1. Daryl B. Simons is a principal of the firm of Simons, Li and Associates, and holds the title of President and Principal Engineer of that firm.

2. Daryl B. Simons is a tenured full professor of civil engineering at Colorado State University, and serves as Associate Dean of the College of Engineering. For 10.67 months of work between July 1, 1981 and June 30, 1982 his compensation from CSU is $66,845.00.

3. Ruh-Ming Li is a principal of the firm of Simons, Li and Associates, and holds the title of Vice President and General Manager.

4. Ruh-Ming Li is a non-tenured professor at CSU. For 6.01 months of work during 1981-82, he is compensated $32,002.

5. The firm of Simons, Li and Associates employs 50 full time personnel, and operates three branch offices in two states.

6. The administration at CSU is aware of and has formally approved of Simons' and Li's involvement as principals in the firm of Simons, Li and Associates.

7. Simons, Li and Associates submitted a proposal for development of the Fossil Creek Drainage Plan in the vicinity of Ft. Collins, Colorado. The proposed fee for the job was $30,000 and the proposed profit rate was 3.2 percent.

8. The proposal by Simons, Li and Associates listed one individual as staff to the project who is a graduate student at CSU.

9. Simons, Li and Associates was awarded the contract by the City of Fort Collins.

10. There is a vast difference between what CSU policy says regarding outside consulting ("occasional professional consulting engagements") and actual practice.

11. In actual practice, the CSU engineering faculty can engage in virtually any consulting activities, up to and including operation of a consulting firm employing 50 people with three branch offices in two states.

12. In actual practice, as long as CSU engineering faculty are perceived to be meeting their obligations to CSU and "not competing with the University", there is no limit whatsoever on their outside consulting activities.

13. The practice of unlimited outside consulting activity would be unacceptable to any other public or private employer of professional engineers.

14. Colorado State University has no concern whatsoever with the fact that its engineering faculty is entering into competition with bonafide consulting engineers who are dependent upon consulting work for their livelihood.

15. The only competition issue CSU is concerned about is employees engaging in competition with CSU itself.

16. CSU's present policy on outside consulting is inadequate, as in practice it allows for virtually unlimited outside contracted consulting activities by engineering staff in competition with bonafide consulting engineers.

17. CSU would prefer to continue to deal with complaints regarding unfair competition and outside consulting on an internal basis, and on a complaint by complaint basis, rather than deal with the issue. This approach is unacceptable.

18. No progress will be made on the issues of concern to the Consulting Engineers Council unless CSU agrees to modify its policy and practices regarding outside consulting.

2.2 RECOMMENDATIONS

The Consulting Engineering Council of Colorado should take a constructive and positive attitude towards resolving the major issues concerning outside consulting services at Colorado State University. In consultation with Richard Hepworth, President, Consulting Engineers Council of Colorado, the College Liaison Committee has developed the following recommendations:

1. The Consulting Engineers Council of Colorado should adopt a policy statement regarding its relationships with engineering education institutions in the State, and outside consulting activities by engineering faculty at those educational institutions. The proposed policy statement is included below.

2. CECC should enter into discussions with Colorado State University with the objective of bringing CSU's policy on outside consulting by engineering faculty in line with the policy statement adopted by the Consulting Engineers Council of Colorado.

3. In the event that CSU refuses to make appropriate modifications to its policy, CECC should take up the matter directly with the Colorado State Board of Agriculture, which is the governing board of Colorado State University.

4. If necessary, in coordination with the Legislative State Committee, the CECC should bring the matter to the attention of the State Legislature and ask for a legislative resolution on outside consulting activities by engineering faculty.

2.3 PROPOSED POLICY OF THE CONSULTING ENGINEERS COUNCIL

Policy Statement
Relationship Among Consulting Engineers Council
of Colorado and Engineering Colleges and Universities

1. The Consulting Engineers Council of Colorado enthusiastically supports the institutions offering engineering education in Colorado.

2. CECC has been and will be supportive of legislative efforts to provide adequate funding for engineering education.

3. The CECC has sponsored and will continue to sponsor scholarships for engineering students. Members of the CECC are strongly encouraged to employ engineering students for part time or seasonal work whenever possible in order to provide maximum support for engineering education in the State.

4. CECC recognizes both the need for and the benefits of engineering faculty members to be associated with projects outside the academic area in order to keep abreast of current private sector trends.

5. The principal activities of engineering faculty should be teaching and research. Outside employment in consulting activities for engineering faculty should be balanced with research activities conducted with the education institution for the benefit of the institution, its faculty, students and society as a whole.

6. Members of the Consulting Engineers Council of Colorado are strongly encouraged to offer part time and seasonal employment to engineering faculty where this employment (a) is beneficial to the firm and the faculty members; (b) does not interfere with the duties and responsibilities of the engineering facility to their primary employers; and (c) is in accordance with outside employment policies adopted by educational institutions.

7. Engineering colleges and universities should adopt policies which encourage faculty members seeking outside activities to do so as part time or seasonal employees of private engineering firms. In lieu of this, faculty members should only offer services as individuals in highly specialized areas of expertise not generally available in the private sector.

8. Engineering faculty members, who spend more than 15% of their time teaching, should be prohibited from functioning as principals or owners of consulting engineering firms employing, on a full or part time basis, other engineering professionals, as such activities must, by nature, detract from their professional obligation to their primary employer.

9. Engineering faculty members should not enter into competition for services offered by private sector firms.

10. Use of university facilities, staff or students in competition with the private sector should be specifically prohibited.

11. When an engineering faculty member offers specialized services they should establish fees which are commensurate with their abilities and experience. These fees should be based on overhead and profit factors which are realistic, and should not be sheltered by the virtues of facilities available at the university including office space.

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American Association of University Professors

Appendix C

On Preventing Conflicts of Interest in Government-Sponsored Research at Universities

The many complex problems that have developed in connection with the extensive sponsored research programs of the federal government have been of concern to the government, the academic community, and private industry. The Association, through its Council, and the American Council on Education, working in cooperation with the President's Science Advisor and the Federal Council of Science and Technology, in 1965 developed a statement of principles formulating basic standards and guidelines in this problem area.

An underlying premise of the statement is that responsibility for determining standards affecting the academic community rests with that community, and that conflict of interest problems are best handled by administration and faculty in cooperative effort. In addition to providing guidelines, the statement seeks to identify and alert administration and faculty to the types of situations that have proved troublesome. Throughout, it seeks to protect the integrity of the objectives and needs of the cooperating institutions and their faculties, as well as of sponsoring agencies.

The increasingly necessary and complex relationships among universities, Government, and industry call for more intensive attention to standards of procedure and conduct in Government-sponsored research. The clarification and application of such standards must be designed to serve the purposes and needs of the projects and the public interest involved in them and to protect the integrity of the cooperating institutions as agencies of higher education.

The Government and institutions of higher education, as the contracting parties, have an obligation to see that adequate standards and procedures are developed and applied; to inform one another of their respective requirements; and to assure that all individuals participating in their respective behalfs are informed of and apply the standards and procedures that are so developed.

Consulting relationships between university staff members and industry serve the interests of research and education in the university. Likewise, the transfer of technical knowledge and skill from the university to industry contributes to technological advance. Such relationships are desirable, but certain potential hazards should be recognized.

A. Conflict Situations

1. ***Favoring of outside interests.*** When a university staff member (administrator, faculty member, professional staff member, or employee) undertaking or engaging in Government-sponsored work has a significant financial interest in, or a consulting arrangement with, a private business concern, it is important to avoid actual or apparent conflicts of interest between his Government-sponsored university research obligations and his outside interests and other obligations. Situations in or from which conflicts of interest may arise are the:

a. Undertaking or orientation of the staff member's university research to serve the research or other needs of the private firm without disclosure of such undertaking or orientation to the university and to the sponsoring agency;

b. Purchase of major equipment, instruments, materials, or other items for university research from the private firm in which the staff member has the interest without disclosure of such interest;

c. Transmission to the private firm or other use for personal gain of Government-sponsored work products, results, materials, records, or information that are not made generally available. (This would not necessarily preclude appropriate licensing arrangements for inventions, or consulting on the basis of Government-sponsored research results where there is significant additional work by the staff member independent of his Government-sponsored research);

d. Use for personal gain or other unauthorized use of privileged information acquired in connection with the staff member's Government-sponsored activities. (The term "privileged information" includes, but is not limited to, medical, personnel, or security records of individuals; anticipated material requirements or price actions; possible new sites for Government operations; and knowledge of forthcoming programs or of selection of contractors or subcontractors in advance of official announcements);

e. Negotiation or influence upon the negotiation of contracts relating to the staff member's Government-sponsored research between the university and private organizations with which he has consulting or other significant relationships;

f. Acceptance of gratuities or special favors from private organizations with which the university does or may conduct business in connection with a Government-sponsored research project, or extension of gratuities or special favors to employees of the sponsoring Government agency, under circumstances which might reasonably be interpreted as an attempt to influence the recipients in the conduct of their duties.

2. *Distribution of effort.* There are competing demands on the energies of a faculty member (for example, research, teaching, committee work, outside consulting). The way in which he divides his effort among these various functions does not raise ethical questions unless the Government agency supporting his research is misled in its understanding of the amount of intellectual effort he is actually devoting to the research in question. A system of precise time accounting is incompatible with the inherent character of the work of a faculty member, since the various functions he performs are closely interrelated and do not conform to any meaningful division of a standard work week. On the other hand, if the research agreement contemplates that a staff member will devote a certain fraction of his effort to the Government-sponsored research, or he agrees to assume responsibility in relation to such research, a demonstrable relationship between the indicated effort or responsibility and the actual extent of his involvement is to be expected. Each university, therefore, should—through joint consultation of administration and faculty—develop procedures to assure that proposals are responsibly made and complied with.

3. *Consulting for Government agencies or their contractors.* When the staff member engaged in Government-sponsored research also serves as a consultant to a Federal agency, his conduct is subject to the provisions of the Conflict of Interest Statutes (18 U.S.C. 202-209 as amended) and the President's memorandum of May 2, 1963, *Preventing Conflicts of Interest on the Part of Special Government Employees.* When he consults for one or more Government contractors, or prospective contractors, in the same technical field as his research project, care must be taken to avoid giving advice that may be of questionable objectivity because of its possible bearing on his other interests. In undertaking and performing consulting services, he should make full disclosure of such interests to the university and to the contractor insofar as they may appear to relate to the work at the university or for the contractor. Conflict of interest problems could arise, for example, in the participation of a staff member of the university in an evaluation for the Government agency or its contractor of some technical aspect of the work of another organization with which he has a consulting or employment relationship or a significant financial interest, or in an evaluation of a competitor to such other organization.

B. University Responsibility

Each university participating in Government-sponsored research should make known to the sponsoring Government agencies:

1. The steps it is taking to assure an understanding on the part of the university administration and staff members of the possible conflicts of interest or other problems that may develop in the foregoing types of situations, and

2. The organizational and administrative actions it has taken or is taking to avoid such problems, including:

a. Accounting procedures to be used to assure that Government funds are expended for the purposes for which they have been provided, and that all services which are required in return for these funds are supplied;

b. Procedures that enable it to be aware of the outside professional work of staff members participating in Government-sponsored research, if such outside work relates in any way to the Government-sponsored research;

c. The formulation of standards to guide the individual university staff members in governing their conduct in relation to outside interests that might raise questions of conflicts of interest; and

d. The provision within the university of an informed source of advice and guidance to its staff members for advance consultation on questions they wish to raise concerning the problems that may or do develop as a result of their outside financial or consulting interests, as they relate to their participation in Government-sponsored university research. The university may wish to discuss such problems with the contracting officer or other appropriate Government official in those cases that appear to raise questions regarding conflicts of interest.

The above process of disclosure and consultation is the obligation assumed by the university when it accepts Government funds for research. The process must, of course, be carried out in a manner that does not infringe on the legitimate freedoms and flexibility of action of the university and its staff members that have traditionally characterized a university. It is desirable that standards and procedures of the kind discussed be formulated and administered by members of the university community themselves, through their joint initiative and responsibility, for it is they who are the best judges of the conditions which can most effectively stimulate the search for knowledge and preserve the requirements of academic freedom. Experience indicates that such standards and procedures should be developed and specified by joint administrative-faculty action.

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Appendix D
Sample Reporting Form
Name of Institution
OUTSIDE ACTIVITIES REQUEST

College _____ Department _____

I (We) _____
Name(s) of Principal(s)

request approval to accept and carry out the following consulting assignment which has been offered by

_____ representing

_____
Institution/Organization

_____
Address Phone

Description of Assignment _____

_____

_____

_____

Use of University facilities/equipment _____

_____

Skills for which contracted (Technical, human, etc.) _____

_____

_____

_____

Estimated equivalent days _____

Starting date _____ Ending date _____

Anticipated conflict with university obligations and their resolution _____

_____

_____

_____

Register numbers of other consultancies presently approved and active or pending

_____

Attach other sheets as needed but be brief

Appendix D, continued

I/we affirm that in this outside activity I am abiding by both the letter and the spirit of the University policy and that my consulting does not involve either conflicts of interest or conflicts of obligations which I have not reported.

Register Number _____

_____ Date

_____ Name

_____ Acad. Rank

_____ U. Assignment

_____ Office

_____ Telephone

_____ Signature

Details of Review Process _____

_____

_____

_____

_____

Disposition of Request _____

_____

_____

_____

_____

_____

_____

Date _____ Approval _____

Disapproval _____

Signature

_____

Position

41

NAME OF INSTITUTION
OUTSIDE ACTIVITIES COMPLETION REQUEST

College _____ Department _____

I (We) _____
Name(s) of Principal(s)

report completion of my (our) consulting assignment with

_____
Institution/Organization

Register No. _____ _____ Approval date _____

Total equivalent days (8 hour) charged/served _____

_____
Signed Date

Briefly indicate: (attach if preferred)

1. The contributions to the client or client organization _____

_____

_____

_____

_____

_____

2. The value of the experience to you in relation to your field and position

_____

_____

_____

_____

_____

3. Any problems encountered about which the department/college/university should be aware

_____

_____

_____

_____

4. Reports or products resulting from the consultancy. Attach.

_____

_____

_____

_____

5. Experiences provided for students or other faculty. List names and hours.

_____

_____

_____

_____

_____

_____

_____

_____
signed

Attach extra sheets if needed but be brief

ACADEMIC CONSULTING
in
COLLEGES AND UNIVERSITIES

A Suggested
Statement of Policy

A Report to the
Coordinating Board
Texas College and University System

by
Robert B. Howsam
Senior Scholar in Residence
Research and Development Center for Teacher Education
The University of Texas at Austin

Spring, 1985

Institutional Policy

Employment Outside of the University

In assembling its scholarly community the University seeks to attract and retain the most highly qualified and accomplished scholars and practitioners from the disciplines and the professions. Through its policies it seeks to preserve and enhance the preeminence of each member of the faculty. It anticipates that each will give a full measure of service in each of the areas of teaching, research, and service but it also recognizes that the faculty must have the opportunity for self-renewal and revitalization on a continuing basis. Practicing their professions outside the University can contribute greatly to their service to students, the institution and society.

Accordingly the University favors outside employment on a limited basis provided such activities are carefully selected with professional and personal development as a major purpose.

Definition of Outside Employment

Outside employment or consulting is defined as ... outside of regular institutional responsibilities, expert professional advice, services, or professionally created products are rendered to a client in return for a fee or other tangible advantage.

Policy: Outside Employment

Subject to certain conditions specified in this statement, full-time members of the university faculty are encouraged to engage in outside

professional activities which will enhance their professional growth and reputation and be of direct or indirect benefit to the university provided the following conditions are met:

1. The faculty member has been invited to perform such services by a recognized and legitimate employer.
2. No undeclared or unresolved conflict of interest is involved.
3. The service to be rendered falls within the area of expertise of the faculty member.
4. Conflicts of obligations with University responsibilities are minimal and capable of responsible resolution.
5. The contracting parties have an explicit understanding that the faculty member is acting privately within the university policy of permitting and encouraging such activity and that the university is not a party to the contract, responsible, or accountable.
6. The contracting party accepts responsibility for reimbursement for all direct costs incurred during the performance of the contract including those incurred by use of University facilities, equipment, supplies, and support services.
7. No fixed uniform time commitments for extended periods of time are involved: such arrangements create unavoidable conflicts of obligation for the faculty member.
8. Payments for service are between the contracting party and the faculty member but it is understood that the fee will not constitute unwarranted unfair competition with such services offered in the private sector.

9. The contractual agreement period does not extend beyond the current academic year. For continuation beyond that time a new proposal will be submitted.

10. The combined activities of this type does not exceed a commitment of more than an aggregate of one day per week of University time.

Service to the Professions

University faculty are drawn from all of the professions. They hold membership in their professional organizations and in higher education organizations to which they provide a variety of services including holding office, serving on committees and task forces, making speeches and serving on panels, writing for or editing journals, and serving accreditation functions. Most such activities are performed without compensation. Some involve token or modest honorarium.

Membership in and service to the professional organizations is viewed as a necessary function of faculty service to be encompassed within the teaching, research, and service responsibilities of the regular assignment. It is not considered as consulting.

Each department is to develop its own policies and procedures for managing and reporting such activities. Since such activities involve absences from campus and conflicts of obligation chairpersons should be informed in advance and should ensure that the conflicts of obligation are resolved.

Unrelated Outside Activities

The University does not presume to interfere in the personal life or activities of its faculty even though some such activities may impact the university unfavorably. This posture includes work activities on time not scheduled for University services -- the two days on the weekends during which time some faculty undertake "moonlighting" employment or self-employment.

Faculty members are urged to consider the possible impact of such activities on the image of the University and on the attitude of the public. They also are urged to ensure that there is no diminution of capacity to serve the university as a faculty member from such activities. When there is such evidence the problems are to be dealt with informally if possible at the department level. Lacking such a resolution formal university procedures are to be employed.

Conflicts of Obligations

It is inevitable that faculty members who are active in outside employment or professional affairs will encounter time and effort conflicts with their instructional, research, and service obligations. Faculty members are responsible for resolving the conflicts and controlling the damage, particularly to instruction.

It is imperative that instruction not be preempted by service obligations. When conflict occurs it is the responsibility of the instructor of record to resolve the conflict without significant loss of opportunity to learn. Options include arranging for a substitute, makeup classes, take home assignments, directed study and library exercises.

Each department is to develop its own policies and procedures for managing and reporting such absences.

Use of the University Name

For reasons of possible misunderstandings or even legal complications, faculty members are not permitted to assert, imply, or permit the assumption that they are acting on behalf of the University when engaging in consulting or other outside activities. University stationery is not to be used nor are business cards which identify the University.

So long as this status is made explicit in each negotiation of outside activities the faculty member may reveal by vita or otherwise the details of the appointment and relationship with the University.

Use of University Facilities, Equipment and Resources

Use of university facilities, materials and supplies, support services, or other resources for private outside activities is expressly forbidden unless appropriate recovery of costs is approved and arranged. An exception is the faculty office, furnishings, and equipment including the telephone and mail services other than postage and telephone toll charges. Secretarial and clerical support services, except for phone answering and mail service, must be privately provided.

Similarly copy services, audio-visual materials and equipment, and other such support services are available only at the charged rates for outside services.

The principle is that outside services are private activities for which costs must be borne by the consultant and recovered from the contracting party. The University urges scrupulous care in accounting for such costs and is obliged to hold the individual responsible for any violations.

Prior Reporting of Outside Activities

In undertaking outside income producing activities the faculty member is acting privately. The University does not consider the activities as subject to its control so long as they do not reflect unfavorably on its image or get the institution involved. Despite this respect for the principle of academic freedom, the University needs to maintain a level of protection against gross misuse of the privilege. Particularly it does not wish to be involved in conflict with the outside community over individual faculty supplementary income and experience projects.

Accordingly, faculty are required to report their intentions to engage in outside activities to their departments, on the form provided, prior to engaging in the proposed activities. If no problems are found permission to proceed will be given. If there is concern consultation will ensue. In the event that concerns cannot be eased, the chairperson must, in the interests of the University, refuse to give permission to proceed.

Appeal is to the Dean of the College and/or a standing faculty committee.

Post Reporting of Outside Activities

On completion of an outside activity the faculty member is to report, on the form provided, to the department chairperson.

Period«Review of Outside Activities

At first on a three year and later on a five year basis departments, colleges and the University are to undertake a comprehensive review of consulting activities as reported with the purposes of providing information and recommendations for policy and practice. Such reviews are proscribed from identification of any individuals or from presenting information in such a way as to make individuals known.

Sample Reporting Form
Name of Institution
OUTSIDE ACTIVITIES REQUEST

College _____ Department _____

I (We) _____
Name(s) of Principal(s)

request approval to accept and carry out the following consulting assignment which has been offered by

_____ representing

_____
Institution/Organization

_____
Address Phone

Description of Assignment _____

_____

_____

_____

Use of University facilities/equipment _____

_____

Skills for which contracted (Technical, human, etc.) _____

_____

_____

_____

Estimated equivalent days _____

Starting date _____ Ending date _____

Anticipated conflict with university obligations and their resolution _____

_____

_____

_____

Register numbers of other consultancies presently approved and active or pending

_____

Attach other sheets as needed but be brief
9

I/we affirm that in this outside activity I am abiding by both the letter and the spirit of the University policy and that my consulting does not involve either conflicts of interest or conflicts of obligations which I have not reported.

Register Number _____

_____ Date

_____ Name

_____ Acad. Rank

_____ U. Assignment

_____ Office

_____ Telephone

_____ Signature

For Department Use

Details of Review Process _____

_____

_____

_____

_____

Disposition of Request _____

_____

_____

_____

_____

_____

_____

Date _____ Approval _____

Disapproval _____

Signature

_____

Position

Sample Reporting Form
Name of Institution
OUTSIDE ACTIVITIES COMPLETION REQUEST

College _____ Department _____

I (We) _____
Name(s) of Principal(s)

report completion of my (our) consulting assignment with

_____
Institution/Organization

Register No. _____ Approval date _____

Total equivalent days (8 hour) charged/served _____

_____ _____
Signed Date

Briefly indicate: (attach if preferred)

1. The contributions to the client or client organization _____

_____

_____

_____

_____

_____

2. The value of the experience to you in relation to your field and position

_____

_____

_____

_____

_____

3. Any problems encountered about which the department/college/university should be aware

_____

_____

_____

_____

4. Reports or products resulting from the consultancy. Attach.

5. Experiences provided for students or other faculty. List names and hours.

signed

Attach extra sheets if needed but be brief